

able for the fiscal years ending June 30, 1961 and June 30, 1962, for the purposes specified in subsec. (c)(1)(A), was increased to \$385,000,000 and \$415,000,000, respectively.

§ 1102. Transfers between Federal unemployment account and employment security administration account

(a) Determination of excess; amount transferred

Whenever the Secretary of the Treasury determines pursuant to section 1101(f) of this title that there is an excess in the employment security administration account as of the close of any fiscal year and the entire amount of such excess is not retained in the employment security administration account or transferred to the extended unemployment compensation account as provided in section 1101(f)(3) of this title, there shall be transferred (as of the beginning of the succeeding fiscal year) to the Federal unemployment account the balance of such excess or so much thereof as is required to increase the amount in the Federal unemployment account to whichever of the following is the greater:

(1) \$550 million, or

(2) the amount (determined by the Secretary of Labor and certified by him to the Secretary of the Treasury) equal to 0.5 percent of the total wages subject (determined without any limitation on amount) to contributions under all State unemployment compensation laws for the calendar year ending during the fiscal year for which the excess is determined.

(b) Unemployment account excesses

The amount, if any, by which the amount in the Federal unemployment account as of the close of any fiscal year exceeds the greater of the amounts specified in paragraphs (1) and (2) of subsection (a) shall be transferred to the employment security administration account as of the close of such fiscal year.

(c) Report to Congress

Whenever the Secretary of Labor has reason to believe that in the next fiscal year the employment security administration account will reach the limit provided for such account in section 1101(f)(3)(A) of this title, and the Federal unemployment account will reach the limit provided for such account in subsection (a), and the extended unemployment compensation account will reach the limit provided for such account in section 1105(b)(2) of this title, he shall, after consultation with the Secretary of the Treasury, so report to the Congress with a recommendation for appropriate action by the Congress.

(Aug. 14, 1935, ch. 531, title IX, §902, as added Aug. 5, 1954, ch. 657, §2, 68 Stat. 669; amended Pub. L. 86-778, title V, §521, Sept. 13, 1960, 74 Stat. 974; Pub. L. 91-373, title III, §304(a), (b), Aug. 10, 1970, 84 Stat. 715, 716; Pub. L. 100-203, title IX, §9154(b)(1), Dec. 22, 1987, 101 Stat. 1330-326; Pub. L. 102-318, title V, §531(b), July 3, 1992, 106 Stat. 316; Pub. L. 105-33, title V, §5402(a), Aug. 5, 1997, 111 Stat. 603.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1102, act Aug. 14, 1935, ch. 531, title IX, §902, 49 Stat. 639, related to credit against tax. For fur-

ther details, see Prior Law note set out preceding section 1101 of this title.

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105-33 substituted “0.5 percent” for “0.25 percent”.

1992—Subsec. (a)(2). Pub. L. 102-318 substituted “0.25 percent” for “five-eighths of 1 percent”.

1987—Subsec. (a)(2). Pub. L. 100-203 substituted “five-eighths” for “one-eighth”.

1970—Subsec. (a). Pub. L. 91-373, §304(a), inserted, in provisions preceding par. (1), reference to the retention of the entire amount of the excess in the employment security administration account or the transfer to the extended unemployment compensation account as provided in section 1101(f)(3) of this title and, in par. (2), substituted “one-eighth of 1 percent” for “four-tenths of 1 per centum”.

Subsec. (c). Pub. L. 91-373, §304(b), added subsec. (c). 1960—Pub. L. 86-778 substituted provisions for transfers between Federal unemployment account and employment security administration account for former provisions crediting the Federal unemployment account with funds and defining “adjusted balance”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-33, title V, §5402(b), Aug. 5, 1997, 111 Stat. 603, provided that: “This section [amending this section] and the amendment made by this section—

“(1) shall take effect on October 1, 2001, and

“(2) shall apply to fiscal years beginning on or after that date.”

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-318, title V, §531(e), July 3, 1992, 106 Stat. 317, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting section 1110 of this title and amending this section and sections 1101, 1104, and 1105 of this title] shall take effect on the date of the enactment of this Act [July 3, 1992].

“(2) CHANGES IN CEILING AMOUNTS.—The amendments made by subsection[s] (a)(2) and (b) [amending this section and section 1105 of this title] shall apply to fiscal years beginning after September 30, 1993.”

§ 1103. Amounts transferred to State accounts

(a) Determination and certification by Secretary of Labor

(1) If as of the close of any fiscal year after the fiscal year ending June 30, 1972, the amount in the extended unemployment compensation account has reached the limit provided in section 1105(b)(2) of this title and the amount in the Federal unemployment account has reached the limit provided in section 1102(a) of this title and all advances and interest pursuant to section 1105(d) of this title and section 1323 of this title have been repaid, and there remains in the employment security administration account any amount over the amount provided in section 1101(f)(3)(A) of this title, such excess amount, except as provided in subsection (b), shall be transferred (as of the beginning of the succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund.

(2) Each State's share of the funds to be transferred under this subsection as of any October 1—

(A) shall be determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury before such date, and

(B) shall bear the same ratio to the total amount to be so transferred as—

(i) the amount of wages subject to tax under section 3301 of the Internal Revenue Code of 1986 during the preceding calendar year which are determined by the Secretary of Labor to be attributable to the State, bears to

(ii) the total amount of wages subject to such tax during such year.

(b) Transfer of funds where State is ineligible

(1) If the Secretary of Labor finds that on October 1 of any fiscal year—

(A) a State is not eligible for certification under section 503 of this title, or

(B) the law of a State is not approvable under section 3304 of the Federal Unemployment Tax Act [26 U.S.C. 3304],

then the amount available for transfer to such State's account shall, in lieu of being so transferred, be transferred to the Federal unemployment account as of the beginning of such October 1. If, during the fiscal year beginning on such October 1, the Secretary of Labor finds and certifies to the Secretary of the Treasury that such State is eligible for certification under section 503 of this title, that the law of such State is approvable under such section 3304, or both, the Secretary of the Treasury shall transfer such amount from the Federal unemployment account to the account of such State. If the Secretary of Labor does not so find and certify to the Secretary of the Treasury before the close of such fiscal year then the amount which was available for transfer to such State's account as of October 1 of such fiscal year shall (as of the close of such fiscal year) become unrestricted as to use as part of the Federal unemployment account.

(2) The amount which, but for this paragraph, would be transferred to the account of a State under subsection (a) or paragraph (1) of this subsection shall be reduced (but not below zero) by the balance of advances made to the State under section 1321 of this title. The sum by which such amount is reduced shall—

(A) be transferred to or retained in (as the case may be) the Federal unemployment account, and

(B) be credited against, and operate to reduce—

(i) first, any balance of advances made before September 13, 1960, to the State under section 1321 of this title, and

(ii) second, any balance of advances made on or after September 13, 1960, to the State under section 1321 of this title.

(c) Use of funds

(1) Except as provided in paragraph (2), amounts transferred to the account of a State pursuant to subsections (a) and (b) shall be used only in the payment of cash benefits to individuals with respect to their unemployment, exclusive of expenses of administration.

(2) A State may, pursuant to a specific appropriation made by the legislative body of the State, use money withdrawn from its account in the payment of expenses incurred by it for the administration of its unemployment compensa-

tion law and public employment offices if and only if—

(A) the purposes and amounts were specified in the law making the appropriation,

(B) the appropriation law did not authorize the obligation of such money after the close of the two-year period which began on the date of enactment of the appropriation law,

(C) the money is withdrawn and the expenses are incurred after such date of enactment,

(D)(i) the appropriation law limits the total amount which may be obligated under such appropriation at any time to an amount which does not exceed, at any such time, the amount by which—

(I) the aggregate of the amounts transferred to the account of such State pursuant to subsections (a) and (b), exceeds

(II) the aggregate of the amounts used by the State pursuant to this subsection and charged against the amounts transferred to the account of such State, and

(ii) for purposes of clause (i), amounts used by a State for administration shall be chargeable against transferred amounts at the exact time the obligation is entered into, and

(E) the use of the money is accounted for in accordance with standards established by the Secretary of Labor.

(3)(A) If—

(i) amounts transferred to the account of a State pursuant to subsections (a) and (b) of this section were used in payment of unemployment benefits to individuals; and

(ii) the Governor of such State submits a request to the Secretary of Labor that such amounts be restored under this paragraph,

then the amounts described in clause (i) shall be restored to the status of funds transferred under subsections (a) and (b) of this section which have not been used by eliminating any charge against amounts so transferred for the use of such amounts in the payment of unemployment benefits.

(B) Subparagraph (A) shall apply only to the extent that the amounts described in clause (i) of such subparagraph do not exceed the amount then in the State's account.

(C) Subparagraph (A) shall not apply if the State has a balance of advances made to its account under subchapter XII of this chapter.

(D) If the Secretary of Labor determines that the requirements of this paragraph are met with respect to any request, the Secretary shall notify the Governor of the State that such requirements are met with respect to such request and the amount restored under this paragraph. Such restoration shall be as of the first day of the first month following the month in which the notification is made.

(d) Special transfer in fiscal year 2002

(1) The Secretary of the Treasury shall transfer (as of the date determined under paragraph (5)) from the Federal unemployment account to the account of each State in the Unemployment Trust Fund the amount determined with respect to such State under paragraph (2).

(2)(A) The amount to be transferred under this subsection to a State account shall (as deter-

mined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to—

(i) the amount which would have been required to have been transferred under this section to such account at the beginning of fiscal year 2002 if—

(I) section 209(a)(1) of the Temporary Extended Unemployment Compensation Act of 2002 had been enacted before the close of fiscal year 2001, and

(II) section 5402 of Public Law 105-33 (relating to increase in Federal unemployment account ceiling) had not been enacted,

minus

(ii) the amount which was in fact transferred under this section to such account at the beginning of fiscal year 2002.

(B) Notwithstanding the provisions of subparagraph (A)—

(i) the aggregate amount transferred to the States under this subsection may not exceed a total of \$8,000,000,000; and

(ii) all amounts determined under subparagraph (A) shall be reduced ratably, if and to the extent necessary in order to comply with the limitation under clause (i).

(3)(A) Except as provided in paragraph (4), amounts transferred to a State account pursuant to this subsection may be used only in the payment of cash benefits—

(i) to individuals with respect to their unemployment, and

(ii) which are allowable under subparagraph (B) or (C).

(B)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable as—

(I) regular compensation, or

(II) additional compensation, upon the exhaustion of any temporary extended unemployment compensation (if such State has entered into an agreement under the Temporary Extended Unemployment Compensation Act of 2002), for individuals eligible for regular compensation under the unemployment compensation law of such State.

(ii) Any additional compensation under clause (i) may not be taken into account for purposes of any determination relating to the amount of any extended compensation for which an individual might be eligible.

(C)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable to 1 or more categories of individuals not otherwise eligible for regular compensation under the unemployment compensation law of such State, including those described in clause (iii).

(ii) The benefits paid under this subparagraph to any individual may not, for any period of unemployment, exceed the maximum amount of regular compensation authorized under the unemployment compensation law of such State for that same period, plus any additional compensation (described in subparagraph (B)(i)) which could have been paid with respect to that amount.

(iii) The categories of individuals described in this clause include the following:

(I) Individuals who are seeking, or available for, only part-time (and not full-time) work.

(II) Individuals who would be eligible for regular compensation under the unemployment compensation law of such State under an alternative base period.

(D) Amounts transferred to a State account under this subsection may be used in the payment of cash benefits to individuals only for weeks of unemployment beginning after March 9, 2002.

(4) Amounts transferred to a State account under this subsection may be used for the administration of its unemployment compensation law and public employment offices (including in connection with benefits described in paragraph (3) and any recipients thereof), subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to “subsections (a) and (b)” in subparagraph (D) thereof to include this subsection).

(5) Transfers under this subsection shall be made within 10 days after March 9, 2002.

(e) Special transfer in fiscal year 2006

Not later than 10 days after October 20, 2005, the Secretary of the Treasury shall transfer from the Federal unemployment account—

(1) \$15,000,000 to the account of Alabama in the Unemployment Trust Fund;

(2) \$400,000,000 to the account of Louisiana in the Unemployment Trust Fund; and

(3) \$85,000,000 to the account of Mississippi in the Unemployment Trust Fund.

(f) Special transfers in fiscal years 2009, 2010, and 2011 for modernization

(1)(A) In addition to any other amounts, the Secretary of Labor shall provide for the making of unemployment compensation modernization incentive payments (hereinafter “incentive payments”) to the accounts of the States in the Unemployment Trust Fund, by transfer from amounts reserved for that purpose in the Federal unemployment account, in accordance with succeeding provisions of this subsection.

(B) The maximum incentive payment allowable under this subsection with respect to any State shall, as determined by the Secretary of Labor, be equal to the amount obtained by multiplying \$7,000,000,000 by the same ratio as would apply under subsection (a)(2)(B) for purposes of determining such State’s share of any excess amount (as described in subsection (a)(1)) that would have been subject to transfer to State accounts, as of October 1, 2008, under the provisions of subsection (a).

(C) Of the maximum incentive payment determined under subparagraph (B) with respect to a State—

(i) one-third shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (2); and

(ii) the remainder shall be transferred to the account of such State upon a certification under paragraph (4)(B) that the State law of such State meets the requirements of paragraph (3).

(2) The State law of a State meets the requirements of this paragraph if such State law—

(A) uses a base period that includes the most recently completed calendar quarter before the start of the benefit year for purposes of determining eligibility for unemployment compensation; or

(B) provides that, in the case of an individual who would not otherwise be eligible for unemployment compensation under the State law because of the use of a base period that does not include the most recently completed calendar quarter before the start of the benefit year, eligibility shall be determined using a base period that includes such calendar quarter.

(3) The State law of a State meets the requirements of this paragraph if such State law includes provisions to carry out at least 2 of the following subparagraphs:

(A) An individual shall not be denied regular unemployment compensation under any State law provisions relating to availability for work, active search for work, or refusal to accept work, solely because such individual is seeking only part-time work (as defined by the Secretary of Labor), except that the State law provisions carrying out this subparagraph may exclude an individual if a majority of the weeks of work in such individual's base period do not include part-time work (as so defined).

(B) An individual shall not be disqualified from regular unemployment compensation for separating from employment if that separation is for any compelling family reason. For purposes of this subparagraph, the term "compelling family reason" means the following:

(i) One or both of the following offenses as selected by the State, but in making such selection, the resulting change in the State law shall not supercede any other provision of law relating to unemployment insurance to the extent that such other provision provides broader access to unemployment benefits for victims of such selected offense or offenses:

(I) Domestic violence, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family (as defined by the Secretary of Labor); and

(II) Sexual assault, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual's continued employment would jeopardize the safety of the individual or of any member of the individual's immediate family (as defined by the Secretary of Labor).

(ii) The illness or disability of a member of the individual's immediate family (as those terms are defined by the Secretary of Labor).

(iii) The need for the individual to accompany such individual's spouse—

(I) to a place from which it is impractical for such individual to commute; and

(II) due to a change in location of the spouse's employment.

(C)(i) Weekly unemployment compensation is payable under this subparagraph to any individual who is unemployed (as determined under the State unemployment compensation law), has exhausted all rights to regular unemployment compensation under the State law, and is enrolled and making satisfactory progress in a State-approved training program or in a job training program authorized under the Workforce Investment Act of 1998,¹ except that such compensation is not required to be paid to an individual who is receiving similar stipends or other training allowances for non-training costs.

(ii) Each State-approved training program or job training program referred to in clause (i) shall prepare individuals who have been separated from a declining occupation, or who have been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, for entry into a high-demand occupation.

(iii) The amount of unemployment compensation payable under this subparagraph to an individual for a week of unemployment shall be equal to—

(I) the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year, less

(II) any deductible income, as determined under State law.

The total amount of unemployment compensation payable under this subparagraph to any individual shall be equal to at least 26 times the individual's average weekly benefit amount (including dependents' allowances) for the most recent benefit year.

(D) Dependents' allowances are provided, in the case of any individual who is entitled to receive regular unemployment compensation and who has any dependents (as defined by State law), in an amount equal to at least \$15 per dependent per week, subject to any aggregate limitation on such allowances which the State law may establish (but which aggregate limitation on the total allowance for dependents paid to an individual may not be less than \$50 for each week of unemployment or 50 percent of the individual's weekly benefit amount for the benefit year, whichever is less), except that a State law may provide for a reasonable reduction in the amount of any such allowance for a week of less than total unemployment.

(4)(A) Any State seeking an incentive payment under this subsection shall submit an application therefor at such time, in such manner, and complete with such information as the Secretary of Labor may within 60 days after February 17, 2009, prescribe (whether by regulation or otherwise), including information relating to compliance with the requirements of paragraph (2) or (3), as well as how the State intends to use the incentive payment to improve or strengthen

¹ See References in Text note below.

the State's unemployment compensation program. The Secretary of Labor shall, within 30 days after receiving a complete application, notify the State agency of the State of the Secretary's findings with respect to the requirements of paragraph (2) or (3) (or both).

(B)(i) If the Secretary of Labor finds that the State law provisions (disregarding any State law provisions which are not then currently in effect as permanent law or which are subject to discontinuation) meet the requirements of paragraph (2) or (3), as the case may be, the Secretary of Labor shall thereupon make a certification to that effect to the Secretary of the Treasury, together with a certification as to the amount of the incentive payment to be transferred to the State account pursuant to that finding. The Secretary of the Treasury shall make the appropriate transfer within 7 days after receiving such certification.

(ii) For purposes of clause (i), State law provisions which are to take effect within 12 months after the date of their certification under this subparagraph shall be considered to be in effect as of the date of such certification.

(C)(i) No certification of compliance with the requirements of paragraph (2) or (3) may be made with respect to any State whose State law is not otherwise eligible for certification under section 503 of this title or approvable under section 3304 of the Federal Unemployment Tax Act [26 U.S.C. 3304].

(ii) No certification of compliance with the requirements of paragraph (3) may be made with respect to any State whose State law is not in compliance with the requirements of paragraph (2).

(iii) No application under subparagraph (A) may be considered if submitted before February 17, 2009, or after the latest date necessary (as specified by the Secretary of Labor) to ensure that all incentive payments under this subsection are made before October 1, 2011.

(5)(A) Except as provided in subparagraph (B), any amount transferred to the account of a State under this subsection may be used by such State only in the payment of cash benefits to individuals with respect to their unemployment (including for dependents' allowances and for unemployment compensation under paragraph (3)(C)), exclusive of expenses of administration.

(B) A State may, subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to "subsections (a) and (b)" in subparagraph (D) thereof to include this subsection), use any amount transferred to the account of such State under this subsection for the administration of its unemployment compensation law and public employment offices.

(6) Out of any money in the Federal unemployment account not otherwise appropriated, the Secretary of the Treasury shall reserve \$7,000,000,000 for incentive payments under this subsection. Any amount so reserved shall not be taken into account for purposes of any determination under section 1102, 1110, or 1323 of this title of the amount in the Federal unemployment account as of any given time. Any amount so reserved for which the Secretary of the Treasury has not received a certification under para-

graph (4)(B) by the deadline described in paragraph (4)(C)(iii) shall, upon the close of fiscal year 2011, become unrestricted as to use as part of the Federal unemployment account.

(7) For purposes of this subsection, the terms "benefit year", "base period", and "week" have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

(g) Special transfer in fiscal year 2009 for administration

(1) In addition to any other amounts, the Secretary of the Treasury shall transfer from the employment security administration account to the account of each State in the Unemployment Trust Fund, within 30 days after February 17, 2009, the amount determined with respect to such State under paragraph (2).

(2) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to the amount obtained by multiplying \$500,000,000 by the same ratio as determined under subsection (f)(1)(B) with respect to such State.

(3) Any amount transferred to the account of a State as a result of the enactment of this subsection may be used by the State agency of such State only in the payment of expenses incurred by it for—

(A) the administration of the provisions of its State law carrying out the purposes of subsection (f)(2) or any subparagraph of subsection (f)(3);

(B) improved outreach to individuals who might be eligible for regular unemployment compensation by virtue of any provisions of the State law which are described in subparagraph (A);

(C) the improvement of unemployment benefit and unemployment tax operations, including responding to increased demand for unemployment compensation; and

(D) staff-assisted reemployment services for unemployment compensation claimants.

(h) Emergency transfers in fiscal year 2020 for administration

(1)(A) In addition to any other amounts, the Secretary of Labor shall provide for the making of emergency administration grants in fiscal year 2020 to the accounts of the States in the Unemployment Trust Fund, in accordance with succeeding provisions of this subsection.

(B) The amount of an emergency administration grant with respect to a State shall, as determined by the Secretary of Labor, be equal to the amount obtained by multiplying \$1,000,000,000 by the same ratio as would apply under subsection (a)(2)(B) for purposes of determining such State's share of any excess amount (as described in subsection (a)(1)) that would have been subject to transfer to State accounts, as of October 1, 2019, under the provisions of subsection (a).

(C) Of the emergency administration grant determined under subparagraph (B) with respect to a State—

(i) not later than 60 days after March 18, 2020, 50 percent shall be transferred to the ac-

count of such State upon a certification by the Secretary of Labor to the Secretary of the Treasury that the State meets the requirements of paragraph (2); and

(i) only with respect to a State in which the number of unemployment compensation claims has increased by at least 10 percent over the same quarter in the previous calendar year, the remainder shall be transferred to the account of such State upon a certification by the Secretary of Labor to the Secretary of the Treasury that the State meets the requirements of paragraph (3).

(2) The requirements of this paragraph with respect to a State are the following:

(A) The State requires employers to provide notification of the availability of unemployment compensation to employees at the time of separation from employment. Such notification may be based on model notification language issued by the Secretary of Labor.

(B) The State ensures that applications for unemployment compensation, and assistance with the application process, are accessible, to the extent practicable in at least two of the following: in person, by phone, or online.

(C) The State notifies applicants when an application is received and is being processed, and in any case in which an application is unable to be processed, provides information about steps the applicant can take to ensure the successful processing of the application.

(3) The requirements of this paragraph with respect to a State are the following:

(A) The State has expressed its commitment to maintain and strengthen access to the unemployment compensation system, including through initial and continued claims.

(B) The State has demonstrated steps it has taken or will take to ease eligibility requirements and access to unemployment compensation for claimants, including waiving work search requirements and the waiting week, and non-charging employers directly impacted by COVID-19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers.

(4) Any amount transferred to the account of a State under this subsection may be used by such State only for the administration of its unemployment compensation law, including by taking such steps as may be necessary to ensure adequate resources in periods of high demand.

(5) Not later than 1 year after March 18, 2020, each State receiving emergency administration grant funding under paragraph (1)(C)(i) shall submit to the Secretary of Labor, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, a report that includes—

(A) an analysis of the reciprocity rate for unemployment compensation in the State as such rate has changed over time;

(B) a description of steps the State intends to take to increase such reciprocity rate.

(6)(A) Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated) to the em-

ployment security administration account (as established by section 1101 of this title) such sums as the Secretary of Labor estimates to be necessary for purposes of making the transfers described in paragraph (1)(C).

(B) There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in the preceding sentence and such sums shall not be required to be repaid.

(i) Transfers for Federal reimbursement of State unemployment funds

(1)(A) In addition to any other amounts, the Secretary of Labor shall provide for the transfer of funds with respect to the applicable period to the accounts of the States in the Unemployment Trust Fund, by transfer from amounts reserved for that purpose in the Federal unemployment account, in accordance with the succeeding provisions of this subsection.

(B) The amount of funds transferred to the account of a State under subparagraph (A) during the applicable period shall, as determined by the Secretary of Labor and except as otherwise provided in this subparagraph, be equal to one-half of the amounts of compensation (as defined in section 3306(h) of the Internal Revenue Code of 1986) attributable under the State law to service to which section 3309(a) of such Code applies and to service provided by employees of an entity created by Public Law 85-874 (20 U.S.C. 76h et seq.) that were paid by the State for weeks of unemployment beginning and ending during such period. With respect to the amounts of such compensation paid for weeks of unemployment beginning after March 31, 2021, and ending on or before September 6, 2021, the preceding sentence shall be applied by substituting “75 percent” for “one-half”. Such transfers shall be made at such times as the Secretary of Labor considers appropriate.

(C) Notwithstanding any other provision of law, funds transferred to the account of a State under subparagraph (A) shall be used exclusively to reduce the amounts required to be paid in lieu of contributions into the State unemployment fund pursuant to such section by governmental entities and other organizations described in section 3309(a) of such Code or an entity created by Public Law 85-874 (20 U.S.C. 76h et seq.).

(D) For purposes of this paragraph, the term “applicable period” means the period beginning on March 13, 2020, and ending on September 6, 2021.

(2)(A) Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated) to the Federal unemployment account such sums as the Secretary of Labor estimates to be necessary for purposes of making the transfers described in paragraph (1).

(B) There are appropriated from the general fund of the Treasury, without fiscal year limitation, the sums referred to in subparagraph (A) and such sums shall not be required to be repaid.

(Aug. 14, 1935, ch. 531, title IX, §903, as added Aug. 5, 1954, ch. 657, §2, 68 Stat. 670; amended Pub. L. 86-778, title V, §521, Sept. 13, 1960, 74

Stat. 974; Pub. L. 88-31, §3, May 29, 1963, 77 Stat. 51; Pub. L. 90-430, July 26, 1968, 82 Stat. 447; Pub. L. 91-373, title III, §305(b), Aug. 10, 1970, 84 Stat. 717; Pub. L. 92-224, §1, title II, §204(c), Dec. 29, 1971, 85 Stat. 810, 814; Pub. L. 92-329, §2(d), June 30, 1972, 86 Stat. 398; Pub. L. 93-368, §4(b), Aug. 7, 1974, 88 Stat. 420; Pub. L. 94-273, §§2(20), 3(23), 23, 41, Apr. 21, 1976, 90 Stat. 375, 377, 379, 381; Pub. L. 97-248, title I, §192, Sept. 3, 1982, 96 Stat. 408; Pub. L. 100-203, title IX, §9155(c), Dec. 22, 1987, 101 Stat. 1330-327; Pub. L. 101-508, title V, §5021(a), (b), Nov. 5, 1990, 104 Stat. 1388-223; Pub. L. 105-33, title V, §5403, Aug. 5, 1997, 111 Stat. 603; Pub. L. 107-147, title II, §209(a)(1), (b), Mar. 9, 2002, 116 Stat. 31; Pub. L. 109-91, title II, §201, Oct. 20, 2005, 119 Stat. 2093; Pub. L. 111-5, div. B, title II, §2003(a), Feb. 17, 2009, 123 Stat. 439; Pub. L. 111-92, §7(a), Nov. 6, 2009, 123 Stat. 2987; Pub. L. 116-127, div. D, §4102(a), Mar. 18, 2020, 134 Stat. 192; Pub. L. 116-136, div. A, title II, §2103(b), title III, §3603, Mar. 27, 2020, 134 Stat. 317, 410; Pub. L. 116-151, §2(a), Aug. 3, 2020, 134 Stat. 680; Pub. L. 116-260, div. N, title II, §§202, 264(a), Dec. 27, 2020, 134 Stat. 1952, 1964; Pub. L. 117-2, title IX, §9012, Mar. 11, 2021, 135 Stat. 118.)

Editorial Notes

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsecs. (a)(2)(B)(i) and (i)(1)(B), (C), is classified generally to Title 26, Internal Revenue Code.

The Temporary Extended Unemployment Compensation Act of 2002, referred to in subsec. (d)(2)(A)(i)(I), (3)(B)(i)(II), is title II of Pub. L. 107-147, Mar. 9, 2002, 116 Stat. 26, which is set out as a note under section 3304 of Title 26, Internal Revenue Code. Section 209(a)(1) of the Act amended this section. For complete classification of this Act to the Code, see Tables.

Section 5402 of Public Law 105-33, referred to in subsec. (d)(2)(A)(i)(II), is section 5402 of Pub. L. 105-33, title V, Aug. 5, 1997, 111 Stat. 603, which amended section 1102 of this title and enacted provisions set out as a note under section 1102 of this title.

The Workforce Investment Act of 1998, referred to in subsec. (f)(3)(C)(i), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113-128, title V, §506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. For complete classification of this Act to the Code, see Tables.

Section 205 of the Federal-State Extended Unemployment Compensation Act of 1970, referred to in subsec. (f)(7), is section 205 of Pub. L. 91-373, which is set out as a note under section 3304 of Title 26, Internal Revenue Code.

Public Law 85-874, referred to in subsec. (i)(1)(B), (C), is Pub. L. 85-874, Sept. 2, 1958, 72 Stat. 1698, known as the John F. Kennedy Center Act, which is classified generally to subchapter V (§76h et seq.) of chapter 3 of Title 20, Education. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 1103, act Aug. 14, 1935, ch. 531, title IX, §903, 49 Stat. 640, related to approval and certification of State laws. For further details, see Prior Law note set out preceding section 1101 of this title.

AMENDMENTS

2021—Subsec. (i)(1)(B). Pub. L. 117-2, §9012(b), inserted “and except as otherwise provided in this subparagraph” after “as determined by the Secretary of Labor” and “With respect to the amounts of such compensation paid for weeks of unemployment beginning after March 31, 2021, and ending on or before September 6, 2021, the preceding sentence shall be applied by sub-

stituting ‘75 percent’ for ‘one-half.’” after “during such period.”

Subsec. (i)(1)(D). Pub. L. 117-2, §9012(a), substituted “September 6, 2021” for “March 14, 2021”.

2020—Subsec. (h). Pub. L. 116-127 added subsec. (h).

Subsec. (h)(2)(B). Pub. L. 116-136, §3603, amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “The State ensures that applications for unemployment compensation, and assistance with the application process, are accessible in at least two of the following: in-person, by phone, or online.”

Subsec. (i). Pub. L. 116-136, §2103(b), added subsec. (i).

Subsec. (i)(1)(A). Pub. L. 116-151, §2(a)(1), substituted “with respect to” for “during”.

Subsec. (i)(1)(B). Pub. L. 116-260, §264(a)(1), inserted “and to service provided by employees of an entity created by Public Law 85-874 (20 U.S.C. 76h et seq.)” before “that were paid by the State”.

Pub. L. 116-151, §2(a)(2), substituted “3309(a)” for “3309(a)(1)”.

Subsec. (i)(1)(C). Pub. L. 116-260, §264(a)(2), inserted “or an entity created by Public Law 85-874 (20 U.S.C. 76h et seq.)” before period at end.

Pub. L. 116-151, §2(a)(3), added subpar. (C) and struck out former subpar. (C) which read as follows: “Notwithstanding any other law, funds transferred to the account of a State under subparagraph (A) shall be used exclusively to reimburse governmental entities and other organizations described in section 3309(a)(2) of such Code for amounts paid (in lieu of contributions) into the State unemployment fund pursuant to such section.”

Subsec. (i)(1)(D). Pub. L. 116-260, §202, substituted “March 14, 2021” for “December 31, 2020”.

2009—Subsec. (f). Pub. L. 111-5 added subsec. (f).

Subsec. (f)(3)(B)(i). Pub. L. 111-92 amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “Domestic violence, verified by such reasonable and confidential documentation as the State law may require, which causes the individual reasonably to believe that such individual’s continued employment would jeopardize the safety of the individual or of any member of the individual’s immediate family (as defined by the Secretary of Labor).”

Subsec. (g). Pub. L. 111-5 added subsec. (g).

2005—Subsec. (e). Pub. L. 109-91 added subsec. (e).

2002—Subsec. (a)(3). Pub. L. 107-147, §209(a)(1)(A), struck out par. (3) which related to disposition of excess amounts remaining in the employment security administration account as of the close of fiscal year 1999, 2000, or 2001.

Subsec. (c)(2). Pub. L. 107-147, §209(a)(1)(B), struck out concluding provisions which read as follows: “Any amount allocated to a State under this section for fiscal year 2000, 2001, or 2002 may be used by such State only to pay expenses incurred by it for the administration of its unemployment compensation law, and may be so used by it without regard to any of the conditions prescribed in any of the preceding provisions of this paragraph.”

Subsec. (d). Pub. L. 107-147, §209(b), added subsec. (d).

1997—Subsec. (a)(3). Pub. L. 105-33, §5403(a), added par. (3).

Subsec. (c)(2). Pub. L. 105-33, §5403(b), inserted concluding provisions.

1990—Subsec. (a)(2). Pub. L. 101-508, §5021(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Each State’s share of the funds to be transferred under this subsection as of any October 1—

“(A) shall be determined by the Secretary of Labor and certified by him to the Secretary of the Treasury before that date on the basis of reports furnished by the States to the Secretary of Labor before September 1, and

“(B) shall bear the same ratio to the total amount to be so transferred as the amount of wages subject to contributions under such State’s unemployment compensation law during the preceding calendar year which have been reported to the State before August 1 bears to the total of wages subject to contributions

under all State unemployment compensation laws during such calendar year which have been reported to the States before August 1.”

Subsec. (c)(2). Pub. L. 101-508, §5021(b), added subpars. (D) and (E) and struck out former subpar. (D) and last sentence which required a State’s appropriation law to limit the total amount which may be obligated during a twelve-month or transitional period from its account.

1987—Subsec. (a)(1). Pub. L. 100-203 inserted “and interest” after “all advances”.

1982—Subsec. (c)(2). Pub. L. 97-248, §192(a), substituted “thirty-four” for “twenty-four” wherever appearing, and “thirty-fourth” for “twenty-fourth” in provisions following subpar. (D).

Subsec. (c)(3). Pub. L. 97-248, §192(b), added par. (3).

1976—Subsec. (a)(2). Pub. L. 94-273, §3(23) substituted “October” for “July”.

Subsec. (a)(2)(A). Pub. L. 94-273, §2(20), substituted “September” for “June”.

Subsec. (a)(2)(B). Pub. L. 94-273, §23, substituted “August” for “May” wherever appearing.

Subsec. (b)(1). Pub. L. 94-273, §3(23), substituted “October” for “July”.

Subsec. (c)(2). Pub. L. 94-273, §41, in subpar. (D) and provisions following subpar. (D) substituted provisions relating to determination based on a twelve-month period (as prescribed in the law of the State), or during a transitional period of less than twelve months caused by a change in the twelve-month period (as prescribed in the law of the State), for provisions relating to determination based on a fiscal year period.

1974—Subsec. (b)(3). Pub. L. 93-368 struck out par. (3) which related to reductions in the amount transferable to the account of any State by reason of emergency compensation paid to any individual for a week of unemployment ending after June 30, 1972.

1972—Subsec. (b)(3). Pub. L. 92-329 inserted provisions relating to reductions in the amount transferable to the account of any State by reason of emergency compensation paid to any individual for a week of unemployment ending after June 30, 1972.

1971—Subsec. (b)(3). Pub. L. 92-224, §204(c), added par. (3).

Subsec. (c)(2). Pub. L. 92-224, §1, substituted “twenty-four preceding fiscal years” and “such twenty-five fiscal years” for “fourteen preceding fiscal years” and “such fifteen fiscal years” in subpar. (D) of first sentence and “twenty-fourth preceding fiscal year” for “fourteenth preceding fiscal year” in second sentence.

1970—Subsec. (a)(1). Pub. L. 91-373 inserted references to the limits provided in sections 1102(a) and 1105(b)(2) of this title, advances pursuant to section 1105(d) of this title, and the amount provided in section 1101(f)(3)(A) of this title.

1968—Subsec. (c). Pub. L. 90-430 substituted in par. (2)(D)(i) “fourteen” for “nine”, in par. (2)(D)(ii) “fifteen” for “ten”, and in provisions following par. (2)(D) “fourteenth” for “ninth”.

1963—Subsec. (c)(2). Pub. L. 88-31 substituted “nine preceding fiscal years” for “four preceding fiscal years”, “ten fiscal years” for “five fiscal years” in cl. (D), and “ninth preceding fiscal year” for “fourth preceding fiscal year” in last sentence.

1960—Subsec. (a). Pub. L. 86-778 substituted provisions of par. (1) for first sentence of the section which read “So much of any amount transferred to the Unemployment Trust Fund at the close of any fiscal year under section 1101(a) of this title as is not credited to the Federal unemployment account under section 1102 of this title shall be credited (as of the beginning of the succeeding fiscal year) to the accounts of the States in the Unemployment Trust Fund” and designated existing provisions of second sentence as part (2), substituting “transferred” for “credited”, and striking out “on or” before “before” in subpar. (A).

Subsec. (b). Pub. L. 86-778 redesignated existing provisions as par. (1) and cls. (1) and (2) thereof as subpars. (A) and (B), substituted “section 3304 of title 26” for “section 1603 of title 26”, in two places, and “transfer to such States’ account”, “transferred”, and “transfer”

for “crediting to such States’ account”, “credited” and “credit”, respectively, except where already reading “shall transfer”, and added par. (2).

Subsec. (c). Pub. L. 86-778 substituted “transferred” for “credited”, wherever appearing, “obligation” for “expenditure” in par. (2)(B), “obligated” for “so used” in par. (2)(D), and “obligated for administration” for “used” in concluding par., inserted references to subsection (b) in pars. (1) and (2)(D), and struck out “any of” before “such five fiscal years” in par. (2)(D).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116-260, div. N, title II, §264(b), Dec. 27, 2020, 134 Stat. 1964, provided that: “The amendments made by this section [amending this section] shall take effect as if included in the enactment of section 2103 of the CARES Act (Public Law 116-136) [enacting section 9022 of Title 15, Commerce and Trade, and amending this section].”

Pub. L. 116-151, §2(b), Aug. 3, 2020, 134 Stat. 680, provided that:

“(1) IN GENERAL.—Subject to paragraph (2), the amendments made by subsection (a) [amending this section] shall take effect as if included in the enactment of section 2103 of the Relief for Workers Affected by Coronavirus Act (contained in subtitle A of title II of division A of the CARES Act (Public Law 116-136)).”

“(2) APPLICATION TO WEEKS PRIOR TO ENACTMENT.—For weeks of unemployment that occurred after March 12, 2020, and prior to the date of enactment of this section [Aug. 3, 2020], States may—

“(A) issue reimbursements in accordance with section 903(i)(1)(C) of the Social Security Act [42 U.S.C. 1103(i)(1)(C)], as in effect prior to the date of enactment of this section; or

“(B) reduce the amounts required to be paid in accordance with such section 903(i)(1)(C), as amended by subsection (a).”

EFFECTIVE DATE OF 2009 AMENDMENT

Pub. L. 111-92, §7(b), Nov. 6, 2009, 123 Stat. 2988, provided that: “The amendment made by this section [amending this section] shall apply with respect to State applications submitted on and after January 1, 2010.”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title V, §5021(c), Nov. 5, 1990, 104 Stat. 1388-223, provided that: “The amendments made by this section [amending this section] shall apply to fiscal years beginning after the date of the enactment of this Act [Nov. 5, 1990].”

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title IX, §9155(d), Dec. 22, 1987, 101 Stat. 1330-327, provided that: “The amendments made by this section [amending this section and sections 1105 and 1323 of this title] shall apply to advances made on or after the date of the enactment of this Act [Dec. 22, 1987].”

REGULATIONS

Pub. L. 116-127, div. D, §4102(c), Mar. 18, 2020, 134 Stat. 194, provided that: “The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a) [amending this section].”

Pub. L. 111-5, div. B, title II, §2003(b), Feb. 17, 2009, 123 Stat. 443, provided that: “The Secretary of Labor may prescribe any regulations, operating instructions, or other guidance necessary to carry out the amendment made by subsection (a) [amending this section].”

Pub. L. 109-91, title II, §203, Oct. 20, 2005, 119 Stat. 2094, provided that: “The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this title [amending this section] and any amendment made by this title.”

EMERGENCY FLEXIBILITY FOR RESPONSE TO COVID-19

Temporary modifications to State unemployment compensation law and policies with respect to work search, waiting week, good cause, or employer experience rating to be disregarded for the purposes of applying section 503 of this title and section 3304 of Title 26, Internal Revenue Code, to such State law, see section 4102(b) of Pub. L. 116-127, set out as a note under section 3304 of Title 26.

§ 1104. Unemployment Trust Fund**(a) Establishment**

There is hereby established in the Treasury of the United States a trust fund to be known as the "Unemployment Trust Fund", hereinafter in this subchapter called the "Fund". The Secretary of the Treasury is authorized and directed to receive and hold in the Fund all moneys deposited therein by a State agency from a State unemployment fund, or by the Railroad Retirement Board to the credit of the railroad unemployment insurance account or the railroad unemployment insurance administration fund, or otherwise deposited in or credited to the Fund or any account therein. Such deposit may be made directly with the Secretary of the Treasury, with any depository designated by him for such purpose, or with any Federal Reserve Bank.

(b) Investments

It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investment may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under chapter 31 of title 31 are hereby extended to authorize the issuance at par of special obligations exclusively to the Fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as of the end of the calendar month next preceding the date of such issue, borne by all interest-bearing obligations of the United States then forming part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 per centum, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 per centum next lower than such average rate. Obligations other than such special obligations may be acquired for the Fund only on such terms as to provide an investment yield not less than the yield which would be required in the case of special obligations if issued to the Fund upon the date of such acquisition. Advances made to the Federal unemployment account pursuant to section 1323 of this title shall not be invested.

(c) Sale or redemption of obligations

Any obligations acquired by the Fund (except special obligations issued exclusively to the Fund) may be sold at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) Treatment of interest and proceeds

The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(e) Separate book accounts

The Fund shall be invested as a single fund, but the Secretary of the Treasury shall maintain a separate book account for each State agency, the employment security administration account, the Federal unemployment account, the railroad unemployment insurance account, and the railroad unemployment insurance administration fund and shall credit quarterly (on March 31, June 30, September 30, and December 31, of each year) to each account, on the basis of the average daily balance of such account, a proportionate part of the earnings of the Fund for the quarter ending on such date. For the purpose of this subsection, the average daily balance shall be computed—

(1) in the case of any State account, by reducing (but not below zero) the amount in the account by the balance of advances made to the State under section 1321 of this title, and

(2) in the case of the Federal unemployment account—

(A) by adding to the amount in the account the aggregate of the reductions under paragraph (1), and

(B) by subtracting from the sum so obtained the balance of advances made under section 1323 of this title to the account.

(f) Payment to State agencies and Railroad Retirement Board

The Secretary of the Treasury is authorized and directed to pay out of the Fund to any State agency such amount as it may duly requisition, not exceeding the amount standing to the account of such State agency at the time of such payment. The Secretary of the Treasury is authorized and directed to make such payments out of the railroad unemployment insurance account for the payment of benefits, and out of the railroad unemployment insurance administration fund for the payment of administrative expenses, as the Railroad Retirement Board may duly certify, not exceeding the amount standing to the credit of such account or such fund, as the case may be, at the time of such payment.

(g) Federal unemployment account; establishment

There is hereby established in the Unemployment Trust Fund a Federal unemployment account.

(Aug. 14, 1935, ch. 531, title IX, §904, 49 Stat. 640; June 25, 1938, ch. 680, §10(e)-(g), 52 Stat. 1104, 1105; Oct. 3, 1944, ch. 480, title IV, §401, 58 Stat. 789; Aug. 6, 1947, ch. 510, §5(a), 61 Stat. 794; Aug. 28, 1950, ch. 809, title IV, §404(b), 64 Stat. 560; Aug. 5, 1954, ch. 657, §5(b)-(f), 68 Stat. 673; Pub. L. 85-927, pt. II, §204, Sept. 6, 1958, 72 Stat. 1782; Pub. L. 86-346, title I, §104(3), Sept. 22, 1959, 73 Stat. 622; Pub. L. 86-778, title V, §521, Sept. 13, 1960, 74 Stat. 976; Pub. L. 98-369, div. B, title VI, §2663(d)(3), July 18, 1984, 98 Stat. 1167; Pub. L. 102-318, title V, §531(d)(3), July 3, 1992, 106 Stat. 317.)